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 FOXHOLLOW TECHNOLOGIES, INC.,
 7 JOHN B. SIMPSON, and
 MATTHEW B. FERGUSON
 8

9
 10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

12 In Re FOXHOLLOW TECHNOLOGIES, INC.
 SECURITIES LITIGATION

Master File No. C-06-4595-PJH

13 **STIPULATION AND [PROPOSED]**
ORDER RELATING AND
CONSOLIDATING CASES

14 This Document Relates to ALL ACTIONS

15 [Pursuant to Civil L.R. 3-12(b), a
 16 chambers copy of this motion is being
 lodged in the case listed below]

17 Judge: Hon. Phyllis J. Hamilton

18 MARILYN VARNADO, individually and on
 19 behalf of all those similarly situated,

Case No. 07-705 MMC

20 Plaintiff,

21 v.

22 FOX TECHNOLOGIES, INC., JOHN B.
 SIMPSON, MATTHEW B. FERGUSON,
 23 DOES 1-100,

24 Defendants.

1 WHEREAS, pursuant to Civil Local Rule 3-12, the parties seek to have the Court relate
 2 the action entitled *Marilyn Varnado v. FoxHollow Technologies, Inc., et al.*, Case No. C 07-
 3 00705 MMC ("Varnado Action"), currently pending before the Hon. Maxine M. Chesney in this
 4 District, to the action pending before this Court entitled *In re FoxHollow Technologies, Inc.*
 5 *Securities Litigation*, Master File No. C 06-4595-PJH ("Consolidated Action"); and

6 WHEREAS, the Varnado Action pending before Judge Chesney concerns "substantially
 7 the same parties, property, transaction or event" as the Consolidated Action pending before this
 8 Court pursuant to Civil L.R. 3-12(a); and

9 WHEREAS, there is a substantial risk of "an unduly burdensome duplication of labor and
 10 expense or conflicting results if the cases are conducted before different judges" pursuant to
 11 Civil L.R. 3-12(b);

12 WHEREAS, pursuant to the Stipulation and Order Consolidating Cases and Appointing
 13 Lead Plaintiffs and Lead Counsel entered on October 26, 2006 in the Consolidated Action
 14 ("Consolidation Order"), the parties seek to have the Court consolidate the Varnado Action
 15 pending before Judge Chesney with the Consolidated Action pending before this Court;

16 WHEREAS, the Varnado Action pending before Judge Chesney "arises out of the subject
 17 matter of" the Consolidated Action pending before this Court pursuant to Paragraph 3 of the
 18 Consolidation Order;

19 WHEREAS, Defendants' Motion to Dismiss Consolidated Complaint is currently
 20 pending in the Consolidated Action and is set for hearing on June 27, 2007

21 WHEREAS, Defendants' answer or other responsive pleading to the Complaint in the
 22 Varnado Action is currently due no later than March 22, 2007;

23 IT IS THEREFORE STIPULATED THAT:

- 24 1. Pursuant to Civil L.R. 3-12, *Marilyn Varnado v. FoxHollow Technologies,*
 25 *Inc., et al.*, Case No. C 07-00705 MMC, is related to the action entitled *In re*
 26 *FoxHollow Technologies, Inc. Securities Litigation*, Master File No. C 06-
 27 4595-PJH.
 28

2. Pursuant to Paragraph 3 of the Consolidation Order, *Marilyn Varnado v. FoxHollow Technologies, Inc., et al.*, Case No. C 07-00705 MMC, is consolidated for all purposes with *In re FoxHollow Technologies, Inc. Securities Litigation*, Master File No. C 06-4595-PJH.
3. All matters presently scheduled for hearing in *Marilyn Varnado v. FoxHollow Technologies, Inc., et al.*, Case No. C 07-00705 MMC are vacated and will be renoticed for hearing before this Court.
4. Defendants' Motion to Dismiss Consolidated Complaint, currently pending in *In re FoxHollow Technologies, Inc. Securities Litigation*, Master File No. C 06-4595-PJH and set for hearing on June 27, 2007, shall be deemed to be Defendants' response pursuant to Fed. R. Civ. P. 12 to the Complaint in *Marilyn Varnado v. FoxHollow Technologies, Inc., et al.*, Case No. C 07-00705 MMC.

Dated: March 16, 2007

KEKER & VAN NEST

By: /s/ Brook Dooley
BROOK DOOLEY
Attorneys for Defendants
FOXHOLLOW TECHNOLOGIES, INC.,
JOHN B. SIMPSON, and
MATTHEW B. FERGUSON

Dated: March 16, 2007

By: /s/ Reginald Terrell
REGINALD TERRELL
Attorneys for Plaintiff
MARILYN VARNADO

1 Dated: March 16, 2007

COTCHETT, PITRE, SIMON & McCARTHY

2
3 By: /s/ Mark C. Molumphy

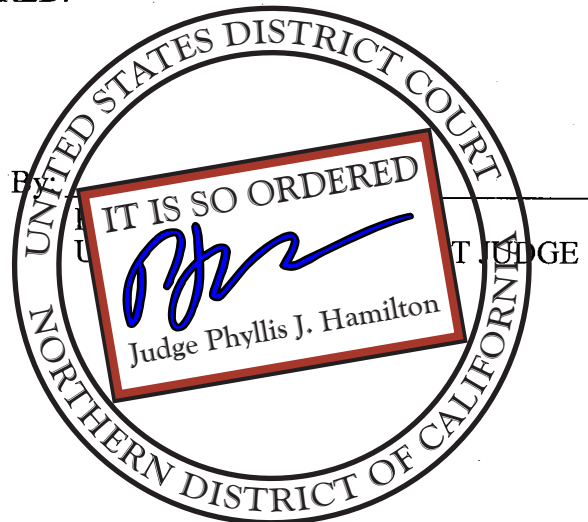
4 MARK C. MOLUMPHY
5 CO-LEAD COUNSEL FOR LEAD
6 PLAINTIFFS AND CLASS

7 I, Brook Dooley, am the ECF user whose ID and password is being used to file this
8 Stipulation and [Proposed] Order. In compliance with General Order 45, X, B., I hereby attest
9 that Reginald Terrell and Mark Molumphy have concurred with this filing.

10
11 **[PROPOSED] ORDER**

12 Pursuant to stipulation, IT IS SO ORDERED.

13 Dated: 3/20/07



PROOF OF SERVICE

I am employed in the City and County of San Francisco, State of California in the office of a member of the bar of this court at whose direction the following service was made. I am over the age of eighteen years and not a party to the within action. My business address is Keker & Van Nest, LLP, 710 Sansome Street, San Francisco, California 94111.

On **March 16, 2007**, I served the following document(s):

Stipulation and [Proposed] Order Relating and Consolidating Cases

by **COURIER**, by placing a true and correct copy in a sealed envelope addressed as shown below, and dispatching a messenger with instructions to hand-carry the above and make delivery to the following during normal business hours, by leaving the package with the person whose name is shown or the person authorized to accept courier deliveries on behalf of the addressee.

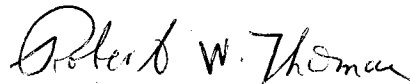
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Executed on March 16, 2007, at San Francisco, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



Robert W. Thomas